IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.501 of 2008
KAPILDEO MAHTO S/o Late Harihar Mahto resident of Shivajee Nagar, Koiree Tola, PS. Habibpur Dist. Bhagalpur
Versus
THE STATE OF BIHAR & ANR
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2 03.12.2008 This revision application has been preferred against the order dated 19.4.2008 passed by the Addl. Sessions Judge FTC No. V, Bhagalpur in Sessions trial no. 1043 of 2005 whereby opposite party no.2 has been declared juvenile under section 7A (2) of the Juvenile Justice (Care and Protection of Children) Act, 2000.

Heard learned counsel for the petitioner.

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Submission of the learned counsel for the petitioner is that the school leaving certificate (annexure 3) containing the date of birth does not appear to be genuine. The court below has wrongly relied upon the same. It is further submitted that the case is at the final stage of the trial. At this stage, it is not proper to declare opposite party no.2 as juvenile. Actually opposite party no.2 was not juvenile on the date of the occurrence.

On perusal of he impugned order; it appears that the Medical Board was constituted on the basis of the direction given by the Hon'ble court in Cr. Revision no. 154

of 2008. The report of the Medical Board is dated 15.2.2008. The Medical Board assessed the age of opposite party no.2 above 18 years. It means in between 18 to 19 years. The date of the occurrence is 25.1.2005. It clearly goes to show that on the alleged date of the occurrence the age of opposite party no.2 was less than 18 years. Apart from it, the school leaving certificate, which is annexure 3, also goes to show that on the alleged date of the occurrence the age of the opposite party was less than 18 years. Thus apparently there is no illegality or impropriety in the impugned order. No case for interference is made out.

Accordingly, this application is dismissed.

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shahid **(Ghanshyam Prasad, J)**

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